

# THE DECALOGUE JOURNAL

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A PUBLICATION OF THE DECALOGUE SOCIETY OF LAWYERS

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Volume 5

JUNE - JULY, 1955

Number 5

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## *Einstein — Ideals*

**T**HE PURSUIT of knowledge for its own sake, an almost fanatical love of justice and the desire for personal independence—these are the features of the Jewish tradition which make me thank my stars that I belong to it.

Those who are raging today against the ideals of reason and individual liberty and are trying to establish a spiritless state-slavery by brute force rightly see in us their irreconcilable foes. History has given us a difficult row to hoe; but so long as we remain devoted servants of truth, justice, and liberty, we shall continue not merely to survive as the oldest of living peoples, but by creative work to bring forth fruits which contribute to the ennoblement of the human race, as heretofore.

—*Mein Weltbild*, Amsterdam:  
Querido Verlag, 1934

**T**HE EXISTENCE and validity of human rights are not written in the stars. The ideals concerning the conduct of men toward each other and the desirable structure of the community have been conceived and taught by enlightened individuals in the course of history. Those ideals and convictions which resulted from historical experience, from the craving for beauty and harmony, have been readily accepted in theory by man—and at all times, have been trampled upon by the same people under the pressure of their animal instincts. A large part of history is therefore replete with the struggle for those human rights, an eternal struggle in which a final victory can never be won. But to tire in that struggle would mean the ruin of society. . . .

—*From an Address to our Society*,  
February 20, 1954

## THE DECALOGUE JOURNAL

*Published Bi-Monthly by*

THE DECALOGUE SOCIETY OF LAWYERS

*Except July and August*

180 W. Washington St. Chicago 2, Illinois

Telephone ANdover 3-6493

Volume 5 JUNE - JULY, 1955 Number 5

BENJAMIN WEINTROUB, Editor

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The Editor will be glad to receive contributions of articles of modest length, from members of The Decalogue Society of Lawyers only, upon subjects of interest to the profession. Communications should be addressed to the Editor, Benjamin Weintroub, 82 West Washington Street, Chicago 2, Illinois.

## Decalogue 1955 Outing July 14

The popularity of Chevy Chase Country Club as an outing playground for the Decalogue annual outdoor affair made it again the best choice for our Society's twenty-first all day Summer gala occasion, on Thursday, July 14. Chevy Chase possesses unsurpassed facilities for the enjoyment of members, their families and guests. Located on Milwaukee Avenue, near Wheeling, it has in addition to a magnificent golf course, a swimming pool, gardens and facilities for various games of skill. The committee in charge is making great efforts to obtain a large number of attractive and useful gifts for free distribution, as door prizes. Arrangements are in progress to provide special programs for the entertainment of lady guests. One of our city's outstanding orchestras has been engaged to provide dance music. Tickets for this event are already available. The price is \$9.50 per person. Morton Schaeffer, Second Vice-President is chairman. Marvin M. Victor and Reginald J. Holzer are co-chairmen.

## FORUM COMMITTEE ACTIVE

Arthur Rubloff, noted realtor and civic leader addressed our Society of April 22nd, at a luncheon in the Covenant Club, on "The Chicago of Tomorrow—Opportunities For All." Mr. Rubloff spoke at length on the feasibility of daring plans for the re-development of the Chicago Loop and its adjacent territory. He stated that while much that needs to be done to modernize the city is still in the blueprint stage, Chicago's outstanding civic, industrial, and business leaders are at the task of trying to implement various projects contemplated.

Whitney R. Harris, Executive Director of the American Bar Association, spoke before our Society on May 13, at a luncheon, also at the Covenant Club. His subject was "The Lawyers in the Executive Branch of Government." A member of the "task force" organized under the direction of the Hoover Commission, Mr. Harris discussed the substance of the reforms recommended and instituted in the Executive branches of our Government that require the services of lawyers.

H. Burton Schatz is chairman of the Decalogue Society Forum Committee.

## 1954 Decalogue Merit Award

The Decalogue Society's last annual Patriotic Dinner honoring Harry S. Truman, selectee for our Award of Merit for 1954, set a precedent in the annals of our Society for the number of guests present and enthusiasm expressed for our Society's choice.

More than eleven hundred people attended the dinner the evening of April 27 at the Sherman Hotel. Men and women distinguished in the legal profession, Judges, heads of Bar associations, clergymen, educators, and business men sat at the speaker's table and throughout the banquet hall. Hundreds of members of our Society, their wives and friends were present. Justice William O. Douglas of the United States Supreme Court came from Washington to avail himself of the opportunity to extol the character and the achievements of the former President of the United States.

President Elmer Gertz presided at the affair. Member Col. Jacob M. Arvey, the choice of our Society for our Award of Merit for 1949, made the presentation address. Igor Gorin, Metropolitan opera star, rendered several vocal selections. First vice-president Bernard H. Sokol was chairman of the Arrangements Committee. Morton Schaeffer, second vice-president, and Judge Harry G. Hershenson were co-chairmen. Past president Carl B. Sussman was chairman of the Ticket Reservations Committee. Rabbi Aaron Ophir of the South Shore Temple delivered the invocation. Ervin Lazlo played several piano selections.

Judge Henry L. Burman of Superior Court, Cook County, was the recipient of the inter-organization award for outstanding service to the Society during the preceding year. Past president Paul G. Annes who was chosen to present Judge Burman with the mark of honor made an address in which he stressed the principal reasons responsible for the Society's bestowal each year of an inter-organizational award.

The avalanche of communications received

by President Elmer Gertz from hundreds of men and women throughout our land, from Europe, and Israel all testify to the universal acclaim evoked by our choice of Harry S. Truman as the recipient of the 1954 Award of Merit. Additional comments appear on page 8.

Below are the addresses of President Elmer Gertz, Justice William O. Douglas, Col. Jacob M. Arvey, and ex-President Harry S. Truman's response.

\* \* \*

### PRESIDENT GERTZ:

—Welcome . . .

With pride and joy we welcome each of you to our annual rededication to the faith of our fathers. On an occasion like the present one that faith takes visible form. In the company of a president of the United States, justices and judges of high courts, and leaders of the community, the American heritage is something real and tangible.

A great and simple American named Abraham Lincoln, once said, "We cannot escape history." Another great and simple American, Harry S. Truman, relearned this truth each day during eight momentous years. We are the indispensable pulse-beats of eternity; time would stand still except for us and millions like us in every land who are the irrepressible children of the one universal Father. Everything we do or say lightens or darkens the way of all who follow us.

We recall, as patriotic Americans, the hallowed moments in the life of our nation and the great men and women who have given meaning to those moments. Those men and women, thank God, are not all dead. It is our faith and practice in The Decalogue Society of Lawyers to honor the living no less than the departed. We place laurel leaves, through our Awards of Merit, on the brows of those who breathe. For we know that monuments can weather storms, but they cannot smell flowers. Our purpose tonight is to praise a great, living American for whom we feel a particular kinship and gratitude.

As Jews in this tercentennial year we are grateful for having been permitted an honorable share in the proud heritage of this nation. We have participated in all of the struggles, dreams and realizations of the New World. We have fought bravely and well in all of the battles of war and peace. We have enriched the spiritual and material treasuries of America by our

contributions to the arts and sciences and professions and commerce of the country.

With pride and joy, we reaffirm tonight that we are Americans through and through, and forever, and we are Jews as well, through and through, and forever; and within us there is no conflict of loyalties, no dichotomy of desires.

The Decalogue Society will reach its 21st birthday a few weeks hence, but it has always been of age in its concept of what Jewish lawyers owe to this community and country. We feel that as Jews, who have stored within us memories of ancient and modern wrongs, tyrannies, bigotries, and ghetto walls, we owe it to ourselves and our neighbors to be, as Heine phrased it, "brave soldiers in the liberation war of humanity." We in the Decalogue Society of Lawyers try to right wrongs, end tyrannies, create tolerance, break down discrimination and segregation in every form, not simply for the sake of the Jews but for all people everywhere. We seek the brotherhood of man in a world at peace. We share this unconquerable yearning with our honored guest.

He has said, and we are grateful to him for the saying, "The fundamental basis of this Nation's Law was given to Moses on the Mount." We, who carry the Mosaic law on our escutcheon, profoundly believe this. We want to be worthy of this divine code in our everyday lives, just as he is. In the spirit of The Decalogue, we carry on today and at all times. In that spirit we greet you, President Truman, and all of your friends foregathered here.

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## Einstein Memorial

Let us pause a moment to recall, in pride and dedication, a Prince of the House of Israel. He was one of the greatest scientists of the ages, universal in mind and soul, and yet always aware of his Jewish heritage, whether as Zionist, in helping the Hebrew University in Jerusalem, or simply in daily living.

Little more than a year ago we bestowed our Award of Merit upon Albert Einstein, and we heard his deathless words, "The existence and validity of human rights are not written in the stars," he said.

He urged us never to tire in the eternal struggle for human rights.

As we bow our heads for a moment in reverent memory, let us resolve, as Albert Einstein did, that we, too, will never yield in that struggle and will always, like another great American whom we are honoring tonight, fight to the utmost, with the strength given us by our Heavenly Father, for the dignity and freedom of all mankind.

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## Justice WILLIAM O. DOUGLAS —A Testimonial . . .

Mr. Chairman . . . President Truman . . . distinguished guests, ladies and gentlemen. . . I'm very happy to be here . . . I come, Mr. President, without a speech. I just barely caught the plane, but I wanted to be here in person, rather than send in just a testimonial, and it so happened that the calendar of our court was cleared this week, enabling me to be here.

I thank the chairman for his gracious comments on my athletic prowess. I could only report to you of the younger generation that I discovered in the passing of the years that all mountains are getting a little steeper. You know, I want to tell you a little bit about Harry S. Truman from the point of view of the little person on the outside of the United States, around in other parts of the globe. In 1949, I was out in Greece with my son, Bill. And Greece, that year, was faced with a terrible alternative. It looked almost certain of being swept under by the Communist way. There were a million people piled up in Athens when we were there—refugees. And the Communists seemed to be everywhere. I was up in Macedonia with General Van Fleet on some of the maneuvers of the Communist armies of the north. And, but for President Truman, that little nation of Greece would have been overrun. It was the Truman Doctrine of 1948 that stemmed the tide. It's worth while pausing to consider the great consequences of that fateful decision. Otherwise, the Soviet power would today be on the warm waters of the Mediterranean, with spearheads pointed to Africa. Thanks to Harry S. Truman, communist aggression was checked at that vital point.

And it was a courageous thing, almost a daring thing, to do in those days. And then along comes Korea. I was out with General Van Fleet. By the time I got there, he was in charge of the armies, of the American Armies in Korea, the United Nations Armies. And that, too, was a great and courageous thing for President Truman to have done. The decision of that nature is a lonely decision, and takes great strength . . . of heart and character. And that, too, stemmed the tide of Communism coming from another flank and stopped aggression; if unchecked, Communism would have swept any number of nations in Asia, and there is not a village in Asia or a villager in Asia tonight that is not more secure, and does not feel more secure, thanks to President Truman.

This Communist business is twofold. There is the military aspect of it, checking its military aggressive moves. And there is another aspect of rolling back the tide of Communism, and that is the program of political action, doing it by political action.

I think one of the great things that President Truman did on the political field in the move against Communism was his recognition of the little state of Israel seven years ago today.

I believe it was, Mr. President, just seven years ago today, according to the Hebrew calendar, that the little state of Israel was born, so to speak. And it was more than the establishment of a homeland for the



Jews. That state of Israel, today, ladies and gentlemen, is a bastion of Democracy in the hinterland of the world that has known nothing but dictatorship and totalitarianism, that has never had a free press, never known freedom of speech and freedom of religion. Those flourish today in Israel, thanks to the courage of Harry S. Truman.

I think that one of the great political inventions in this international field to help roll back the tide of Communism, probably the greatest political invention, was the one that was made by President Truman when he announced the "Point Four" program.

I've seen the Point Four Program in Africa and Asia, in many, many different countries, way in the wastelands of the world, bringing a higher standard of living to people, teaching them the techniques of increasing the production of wheat and rice, teaching them the handicrafts, teaching them village industries, bringing to them a technique whereby they can conduct their own revolutions in their own peaceful way. It is the greatest political invention, I think, that America has offered the world this century. And that again, thanks to Harry S. Truman.

And there is only the other thing that I want to mention, Mr. President, and it concerns more of your activities on the domestic front. But it, too, has had very wide ramifications in the international field. And that is your insistence upon adherence to the great American philosophy of the equality of men. It was Harry Truman that signed the executive order that started putting an end to segregation of the colored people in the Armed Services of the United States.

It was Harry Truman that fought and bled—and we're glad he didn't die—over the FEPC, but he was waging mighty good battles for equality treatment there. It was Harry Truman that carried the message of equality of all minorities, regardless of race or creed or color, to the peoples of the world.

Ladies and gentlemen, as I am traveling the world I see no more important problem in the world than the problem of minorities, the problem of race; those are the problems that tear communities apart. The problem in America has been to a very great extent solved by the wise statesmanship of men like Harry Truman. And what that has done for America abroad is difficult for us here at home to imagine. The things that are going to win, ultimately, this battle of freedom in the world, are these ideas of freedom and justice and equality that we practice here at home. And that is why, Mr. President, your great stand for equality among men of all races, all creeds, all religions, every minority here at home, has been the greatest, best advertising that America could possibly get abroad.

Well, this is just my little testimonial. I'm happy I could be here in person to deliver it. I'm sorry I did not have a chance to write it out and hand it to you on a piece of paper, but I speak it from my heart, and I say in conclusion that a hundred years from now the little peoples all around the world will think of Harry Truman when they think about the cause of liberty and justice that they have won in their own countries.

## Presentation:

### —Colonel JACOB M. ARVEY

Tonight is a most historic night. The Decalogue Society of Lawyers honors a great American—one who is dedicated to the principle of freedom of people no matter where they may live. It is not a mere coincidence that this day was chosen to give Harry S. Truman the Decalogue Award. According to the Jewish calendar, exactly seven years ago to the day there resounded throughout the world the lusty cry of a baby nation, the sovereign state of Israel. It is befitting on this special anniversary night that a Decalogue Award—Decalogue—the great white tablet of the Ten Commandments, symbolizing the freedom of people for all times should be given to a man who symbolizes freedom in our generation. The Decalogue's very first introductory words, "I am the Lord thy God who brought thee out from the land of Egypt," are remembered on this night—as are remembered the words of our guest of honor, the then President of the United States, exactly seven years ago when, within ten minutes after the proclamation of independence and statehood of the people who came out of Egypt, he adopted and recognized this new democratic State.

It is not surprising that Harry S. Truman was the first to do this. Where others viewed Israel and her people in the light of cold military and economic logistics, including numerical strength, military power, natural resources and material wealth, President Truman was able to penetrate the fog of misrepresentation and subtle propaganda and see the wealth of cultural, spiritual and historical resources possessed by this new nation. He saw the restoration of the land of the Bible to a people who believed in freedom, because it had suffered from want of freedom; a people who believed in justice, because it had sacrificed millions of its sons and daughters to the blindness of justice; a people who would fight for the preservation of a democracy and all it represents because it had felt the cruel manifestations of dictatorship. The immediate and electrifying recognition of Israel was a courageous act by a courageous man. Courage has characterized the life of our distinguished guest as soldier, statesman and citizen. He never flinched when action was necessary. The Marshall Plan, the Truman Doctrine, NATO, the use of the atom bomb, the decisions to meet Communism head on wherever and whenever it threatened free peoples, and the resultant actions with respect to Greece, Turkey and Korea, all attest to the courage of this man.

His devotion, regard and affection to the common man has led him to courageous acts in another field of human life. He dared fight for civil rights when it jeopardized his political future and the fortunes of his party. He dared speak out against the discriminatory McCarran Act when it seemed certain that his efforts would prove to no avail. And now, as a private citizen, he continues to give heroic leadership in the fight to preserve the freedom and democratic rights of all Americans.

History will record him as the advocate of the poor, weak, oppressed, and under-privileged, and the defender of God's edict that all men are equal before him.

Harry S. Truman rose out of the people and the heart of America. He has been the champion of the dignity of man, regardless of race, color or creed. He has been an inspiring example of how to strive realistically and relentlessly to win for all people the right to life, liberty and the pursuit of happiness. Whenever and wherever men speak of liberal government, they will be echoing the aims and achievements of our guest of honor. I am proud of my membership in this Society and honored by it in the privilege of presenting to you, Mr. President, its Award of Merit. May the Almighty give you continued good health and strength, and the blessings which go to those who do His work.

\* \* \*

## Hon. HARRY S. TRUMAN

### —Response

I am grateful for the AWARD OF MERIT given me by your good organization—The Decalogue Society of Lawyers.

As you all may know, I have been busy for almost two years trying to write a factual story of my administration, and it is encouraging to a struggling author to get, in advance, such a warm review as this Award of Merit seems to contain. I have had considerable experience with lawyers during my public life. Usually they tried to point out to me where I was wrong. It is pleasing now to have a group of distinguished lawyers tell me otherwise.

I hope you will not think I am invading your particular field tonight if I speak to you about the Bill of Rights and your responsibilities as lawyers. First let me say that you, as lawyers, have an important duty to be on the alert against any attack on the Bill of Rights. Even at times when the people grow a little weary of being reminded about the dangers to their rights, you must keep a constant lookout. In my opinion, the Bill of Rights, consisting of the first ten amendments to the Constitution of the United States, is the most sacred part of that greatest of governmental documents. The passage of those amendments was made a condition precedent to its ratification. The Bill of Rights protects the individual from his government and from the tyranny of the majority. But it is a continual fight by those who believe in individual freedom to maintain that freedom. The Declaration of Independence and the Constitution, when they were written, were revolutionary documents. But they were revolutionary in a very unusual sense.

Many, I might say most, revolutions are simply a resort to force and violence to impose a new despotism upon the people. But these documents were for a very different purpose; their aim was to make despotism impossible. Both the Declaration of Independence and the Constitution seek to make the rule of law and the concepts of justice the dominating factors in govern-

ment. To a very great extent they have succeeded. The struggle against the use of naked force as an instrument of government was an old one even before these two documents were written. Our forefathers created a new nation, but they based it upon the long experience of the English people in maintaining human freedom. And the experience of the English people was the culmination of the basic moral teachings contained in the ten commandments of the Decalogue, the twelve tables of the Roman law, and the idea of individual freedom of the ancient Greeks.

The right to trial by jury, the right to be free from unreasonable search and seizure, the right of habeas corpus, the prohibition against cruel and unusual punishment, the guarantees of freedom of the press, freedom of assembly and freedom of religion, all these were basic concepts in the days of our revolution. They were concepts for which men had worked and even given their lives for centuries past. But they had never been made the foundation stones of a government until they were put in to the Declaration of Independence and the Constitution, and its first ten amendments, the Bill of Rights, are just as fundamental a part of our basic law as the original version of the Constitution.

These rights have become so well established in this country that we take them for granted. They are so much a part of our lives that they may seem dry and uninteresting. But the history of other countries in recent years has shown us how vital and important they are. Recent history has demonstrated that the unrestrained use of force by government is just as great a danger to human progress now as it was ages ago. It has demonstrated that unless citizens have rights against the government, no one can be safe or secure.

In our lifetime, we have learned anew the human misery that an absolute, power-mad government can create. We have seen it in the brief history of the Fascist and Nazi tyrannies. We are witnessing it today in the tyranny of Soviet communism. The only guarantee against such a society of fear and cruelty is the principle that the government is not above the law. Our Declaration of Independence and our Constitution proclaim that the government is subject to the fundamental law. The Constitution sets up a system of internal checks and balances which may seem cumbersome to us at times, but which succeed in preventing any part of the government from having absolute power. Under our Constitution it is not only the citizens who are made to conform to the principles of justice, but the government itself has to conform. The citizen has the power to enforce his rights against the government. The rule of law is made supreme. The wisdom of our form of government is that no man, no matter how good he may appear to be, can be entrusted with absolute power. The great achievement of our form of government is that it has enabled us to meet the changing needs of the people, while providing a rule of law that restrains all men, even the most powerful. The glory of our form of government lies in the fact that it has held us faithful to the

concept that the aims of government are human betterment and human freedom. I hope this nation will always stand as a citadel of freedom. Today, in a world where we have witnessed the most violent and the most relentless attacks upon freedom of the mind, this will not be easy, as you members of the Decalogue Society must well know.

Let us remember that in this country we have had periodic waves of hysteria threatening the foundations of our freedom. In 1798 to 1800 mass hysteria swept our country and culminated in the Alien and Sedition Laws. This developed when France, a friend and ally in our Revolution, seemed to have been transformed into a threatening enemy. At the same time, the majority of Americans were rising up politically against the Federalist party. Unscrupulous politicians tried to play on this fear of France in such a way as to injure the growing power of Jeffersonian democracy. These events unfolded only a few years after the French Revolution. The ideals of "Liberty, Equality and Fraternity" enunciated during the French Revolution appealed to the democratic-minded Jeffersonians, while the aristocratic-minded Federalists looked on the French Revolution as an example of mob madness. Riding on the crest of a wave of anti-French feeling in 1798, the Federalists decided to take additional steps to crush the Jeffersonian opposition in advance of the mid-term Congressional elections. French and Irish immigrants had a habit of lining up overwhelmingly against the Federalists in elections, so steps were taken to curb alien influence. Additional measures were taken to choke off other domestic political opposition to the Federalists.

As a result the Alien and Sedition Laws were passed, vesting in the government very drastic arbitrary powers. The prosecutions made under these laws were against Jeffersonian Republican newspapers and prominent Jeffersonian political leaders. It was more than coincidence that all the prosecutions were against those who were unfriendly toward President Adams and the Federalist party, and there was no attempt to proceed against any newspaper or individual who criticized Vice President Jefferson with an equal or greater degree of abuse.

The ill-fated attempt of the Federalists to snuff out opposition by crushing the liberty of the people resulted in an overwhelming defeat for the Federalists in the election of 1800. Never again did the Federalists regain power. Unfortunately, however, the type of hysteria and witch-hunting which the Federalists sponsored did not die with the election of 1800. This was the start of the Jeffersonian Democratic-Republican party which was made up of men who were for the Republic of the United States, as opposed to the Federalists, or special privilege party, the members of which leaned somewhat toward monarchy. The Jeffersonian Democratic-Republican party had no connection whatever with the Republican special interest party organized from the remnants of the Federalists, Whigs, and Know-Nothings, and the Anti-Masons and Anti-Catholics.

The next wave of hysteria was the anti-Masonic

movement directed against the Masonic Order, on the grounds that there were evils inherent in the secrecy and rituals of Masonry. As with other witch-hunts, it is difficult to reduce the rationale of the movement to cold logic; it was a form of anti-religious hysteria, similar in nature to the many anti-Catholic movements in the years which followed. More serious and damaging, of course, was the spirit of intolerance and persecution engendered by the anti-Masonic movement. Politicians stirred up the hysteria in an effort to get votes, using anti-Masonry as an issue because they had no genuine issues. By 1840 organized anti-Masonry was dead. The hate and intolerance which it had engendered, however, were not. They were merely channeled in another direction, and the fanatics soon found a new cause of intolerance in the Know-Nothing movement.

The so-called Know-Nothing movement was primarily directed against Catholics and immigrants in the period prior to the Civil War. It was a native American phenomenon, characterized by a super-nationalistic feeling, hatred of certain minority groups, and secrecy of code and operation. The name derived from the fact that members who were questioned about the organization usually replied, "I Know Nothing." In later years, the political supporters of the movement succeeded in getting on the ballot in many states as the "American Party."

Although the American Indian is probably the only native American, some individuals have always imagined that immigration is a menace to American institutions. The immigrants settled in huge numbers in large urban areas, where many of them joined city political machines. The Know-Nothing movement started as a protest against the influence of these immigrants. It was directed against the Germans in Cincinnati and St. Louis, the Scandinavians in Wisconsin and Minnesota, and the Irish in the east. Primarily, however, it was directed against the Catholics. All who joined were pledged to vote only for natives, to press for the enactment of a 21-year probationary period preceding naturalization, and to combat the Catholic Church. Despite the eventual political decline of the Know-Nothing movement, the spirit of intolerance was not completely erased. Know-Nothingism foreshadowed later political and social movements which displayed the same unfortunate religious or racial bigotry, hysteria and witch-hunting. The spirit of Know-Nothingism came to life again after World War I. Fear of foreigners and fear of organized labor were manipulated and brought together in the radical scare of the twenties, and in the revival of the Ku Klux Klan. Here again fear was stirred up for political purposes. Educational institutions were attacked. The Catholic religion and the Jewish religion were slandered and vilified. As a result, in many states the Ku Klux Klan rose to considerable political importance. The Klan, like those other hate movements, was ultimately wiped out by the common sense of the American people.

We have been able to survive these periods of hysteria because the strength of the American system



was in the Bill of Rights. Not only does the Bill of Rights protect against Federal infringement of freedom of worship, freedom of speech, freedom of the press and other basic rights, but it shines as a beacon of inspiration in the struggle to preserve civil liberties.

When I was President, many people advised me not to raise the whole question of civil rights. They said it would only make things worse. But you can't cure a moral problem or a social problem by ignoring it. It is no service to the country to turn away from the hard problems—to ignore injustice and human suffering. It is simply not the American way of doing things. Of course, there are always a lot of people whose motto is, "Don't rock the boat." They are so afraid of rocking the boat that they stop rowing. We can never go ahead that way. We can only drift with the current and finally go over the falls into oblivion with nothing accomplished. If something is wrong, the thing to do is to dig it out, find why it is wrong and take sensible steps to put it right. We are all Americans together, and we can solve our hard problems together.

## MORE ACCLAIM

*The following are among the comments regarding our choice for the Award of Merit for 1954, received too late for publication in the last issue of the Journal.*

I can think of no one more suited from every point of view to receive the Award of Merit from The Decalogue Society of Lawyers than President Truman. His courage, good sense and vision warrant honoring him in this way.

FRANCIS BIDDLE

... I know that The Decalogue Society speaks not only for its members, but for Mr. Truman's millions of friends from public life, when it acclaims his historic achievements in the cause of freedom at home and abroad. ...

CHESTER BOWLES

... I cannot imagine anybody who is more deserving of this tribute. ...

MARSHALL FIELD, President  
Chicago Sun-Times

... You do well to honor him. ...

FELIX FRANKFURTER  
United States Supreme Court

... Less than a decade ago, much of the free world lay exhausted and helpless before the expanding communist empire. Nation after nation faced the internal threat of subversion and the external threat of invasion. But in that crucial period, Harry S. Truman, overcoming inertia and opposition, rallied the American people to take up the challenge, helped the prostrate nations of the free world to gain new life and strength, rearm America itself, and forged the chains of alliance which today bind the non-communist world. ...

AVERELL HARRIMAN  
Governor, State of New York

... Harry S. Truman stands as a monument to moral courage, a reminder to all who seek non-material values that it is necessary first to develop the virtue of courage; when you have acquired that, but not before, you may aspire to honesty, loyalty, truth and all the rest. For without courage all your other virtues are founded on sand and will collapse when the hurricane strikes. ...

GERALD W. JOHNSON

... I have long admired his frankness in dealing with the American people and his courage in facing the most difficult foreign situations he inherited. I believe the future historians, with access to public papers that are now not available, will rank Mr. Truman as one of our greatest presidents in that field. ...

ALF M. LONDON

... Harry S. Truman proved that the genius of the American democracy is that it can produce plain citizens who, when the times demand, can scale the lonely heights. We admired him for his courage, we followed him for his vision, we love him now for the grace and quiet dignity of his life as a citizen of Independence, Missouri; but above all we honor him today because more than any other American of his time he justified and renewed our faith in ourselves. ...

ADLAI E. STEVENSON

... It was my privilege to be closely associated with him through the years of his Presidency, when I was his representative at home and abroad. No more appropriate selection could be made. ...

MYRON C. TAYLOR

... As a Cabinet officer in two Administrations I found that the question of the future of the Jewish people in Palestine came up a number of times. At no time was the question presented with greater urgency than to President Truman, in July and August of 1946. The Cabinet was divided on the question. Certain people in two great departments were against the decision which the President finally made at that time. The influence of Britain was being thrown on the other side. I happen to have been, to some extent on the inside as the conflicting forces made themselves felt in the Press, in Congress and in the Administration. The decision which President Truman arrived at in the late summer of 1946 was all important to the future of Israel. ...

HENRY A. WALLACE

## "THE INFAMOUS BROYLES BILLS"

Member of our Board of Managers, Senator Marshall Korshak of the Fifth Senatorial District, addressed a large gathering in the City Club, at a luncheon on April 18, on the "Infamous Broyles Bills."



## Optional Provision 17 and Its Successor In the Illinois Insurance Code

By HERMAN B. GOLDSTEIN

*Member Herman B. Goldstein is a lecturer in Insurance Law, John Marshall Law School, and the author of GOLDSTEIN'S CASES ON INSURANCE. He is a frequent writer in legal periodicals on insurance law.*

In 1915, twenty-two years before passage of the Illinois Insurance Code,<sup>1</sup> the legislature's accident and health policy act was approved.<sup>2</sup> Therein, among other provisions, appeared in section 4 thereof, and commonly known as optional standard provision 17, the following:

"17. If the insured shall carry with another company, corporation, association or society other insurance covering the same loss without giving written notice to the insurer, then in that case the insurer shall be liable only for such portion of the indemnity promised as said indemnity bears to the total amount of like indemnity in all policies covering such loss, and for the return of such part of the premium paid as shall exceed the pro rata for the indemnity thus determined."

The identical language of this provision was carried over into the Illinois Insurance Code, as paragraph 17 of section 358, effective July 1, 1937.<sup>3</sup>

Its purpose was to give accident and health underwriters an opportunity to guard against overinsurance.<sup>4</sup> The courts have held that the provision is not unconstitutional as against public policy but can be justified only on the ground that the element of moral hazard is involved in such insurance. Further, they say, there is a danger of liability on account of self-inflicted injuries or self-imposed illness if excessive or overinsurance is permitted.<sup>5</sup>

Yet it is to be observed that such a provision is *not* a standard or optional provision for ordinary life policies.<sup>6</sup> Nevertheless, the suicide clause in many life policies serves the same purpose, insofar as death is concerned. (No benefit for self-destruction within 2 years from date of the certificate is a standard provision under the Mutual Benefit Association article of the Code.)<sup>7</sup> But what is more interesting, is that many life policies, for an additional premium, provide accident and health benefits. As to those additional benefits in the life policy, the courts have held that optional provision 17 is *inapplicable* because the life

policy does not cover the same accident or health loss, as accident and health policies.<sup>8</sup>

The effect of optional provisional 17 was a reduction in benefits, if the insured had more than one accident or health policy containing the provision and *did not* give the insurer written notice thereof. For example, if we had three accident or health policies, each or any with different insurers, and each paying us \$60 a week as a disability benefit in case of loss, and each containing optional provisional 17, and we *did not* notify any of the insurers that we had the other policies, upon loss, their obligation to pay us would be only \$20 each, per week, or a total of \$60 per week instead of a total of \$180 per week, plus a return of the unearned premium for that premium paying period.

This optional provision obtained until January 1, 1952 when the legislature's amendment of June 29, 1951 became effective.<sup>9</sup> But in passing the amendments, the legislature permitted the underwriters to issue their policies with or without optional provision 17 until January 1, 1957, the policies to be approved by the Director of Insurance before January 1, 1955.<sup>10</sup> After December 31, 1956 the following provision apparently, replaces optional provision 17, as an optional standard provision for accident, health, hospitalization and surgical insurance policies and certificates issued under the Code.

"INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable plus the total of like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro-rata portion for the amount so determined. . . ."<sup>11</sup>

It should be noted that this subdivision, (2) (d), of the standard provisions, merely covers a service or expense policy or certificate, such as insurance for

<sup>1</sup> Chap. 73 Ill. Rev. Stat. 1953

<sup>2</sup> Laws 1915, p. 472

<sup>3</sup> Chap. 73 Ill. Rev. Stat. 1937

<sup>4</sup> *Dustin v. Interstate Men's Ac. Assn.* 37 S. D. 635, 159 N. W. 395 (1916)

<sup>5</sup> *Mass. Bond & Ins. Co. v. Santee* 62 F2nd 724 (1933)

<sup>6</sup> Chap. 73 Sec. 836 Ill. Rev. Stat. 1953

<sup>7</sup> Chap. 73 Sec. 945 Ill. Rev. Stat. 1953

<sup>8</sup> *Oglesby v. Mass. Acc. Co.* 230 App. Div. 361, 244 N. Y. S. 576 (1930)

<sup>9</sup> *Gilbert v. Inter-Ocean Cas. Co.* 41 N. M. 463, 71 P2nd 56 (1937)

<sup>10</sup> Chap. 73 Sec. 969a Sub. (2) (d) & (e) Ill. Rev. Stat. 1953

<sup>11</sup> Chap. 73 Sec. 968a Sub. 3 Ill. Rev. Stat. 1951

<sup>12</sup> Chap. 73 Sec. 969a Sub. (2) (d) Ill. Rev. Stat. 1953

hospitalization or surgery. That is, the hospital or the doctor bill as an expense to the insured, or any other actual expenses incurred by the insured. The following similar provision, we should note, covers other benefits, such as weekly disability benefits because of an accident or illness.

"INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro-rata portion for the indemnities thus determined."<sup>12</sup>

Unless the accident or health policy under the amendments has a definition of "other valid coverage," which definition includes group insurance, automobile medical payment insurance or coverage provided by hospital or medical service organizations, union welfare plans or employer and employee benefit organizations, these forms of insurance are excluded insofar as the required notice is concerned.<sup>13</sup>

In *Haj v. American Bottle Company*,<sup>14</sup> our Supreme Court held, "When a notice is required and the mode of service is not stipulated the law requires that it should be personal." Since, in these standard provisions for accident and health policies, no provision for substituted service of the required notice is mentioned, it would seem that the written notice specified therein must be *personally* served on the insurer.

The standard provisions for accident and health policies appearing in Article 20 of the Code, are also applicable to hospital, nursing, medical and surgical insurance.<sup>15</sup> Therefore, the illustration, above given, of the effect of the provisions herein discussed, is applicable to hospital and surgical insurance policies and certificates, as well.

In analyzing the courts' reasoning for upholding the validity of optional provision 17, it would seem that the underwriters of accident, health, hospitalization and surgical insurance could exclude from their policies, self-inflicted injuries and self-imposed illness as the life underwriters do by inserting a suicide clause.

Some courts have considered personal insurance, that is life, accident, health, hospitalization and surgical insurance, on the same level or basis as property insurance.<sup>16</sup> Strictly speaking it is not. Property insurance is indemnity insurance, and it would seem that one of the reasons for the pro rata clause in the fire insurance policy (a standard provision since 1887) or any other property or indemnity policy is the equitable doctrine of unjust enrichment of the insured.

Equitably, as indemnity, he should receive no more nor less than his actual loss. He should not profit by the insurance,<sup>17</sup> otherwise it would be an investment for profit.

Yet, some other courts and text-writers have repeatedly said that life and accident insurance is not indemnity.<sup>18</sup> Some have emphatically stated that life and accident insurance must be considered in the nature of an investment.<sup>19</sup> No one can place an accurate value on a man's life, nor his injuries, nor his illness. This makes it difficult to reconcile excessive or over-insurance involving human life, pain and suffering. Even the statutory limit<sup>20</sup> for wrongful death is arbitrary. Many states have no limit; others widely vary in their amounts. The jury's verdict for pain and suffering is merely an assessment, an opinion, an estimate of value. Never true indemnity. A man may be worthless to his community, yet that man's beneficiary may recover \$10,000 as the proceeds of his life policy. For those reasons, many courts have held that in life and accident insurance, there can be no subrogation to the insurer of the insured's or his personal representative's rights against a third party tortfeasor.<sup>21</sup>

Though optional provision 17 has been repealed, we now have with us the two similar provisions, subdivisions (2) (d) & (e).<sup>22</sup> Lord Coke, the great progenitor of the English common law, said centuries ago, that "The reason of the law is the life of the law." Whether in Illinois, the reason for or the purpose of these new provisions is to dissipate excessive accident or health insurance or unjust enrichment of the insured must wait for our courts to enunciate. But concerning the latter, an interesting standard provision in the Code,<sup>23</sup> restricts the amount of recovery for time loss, to a man's monthly earnings, not less than \$200 a month or the insurance to be paid, whichever is less, in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums, (1) until at least age 50, or (2) in the case of a policy issued after age 44, for at least five years from its date of issue.

In conclusion, it is to be observed, that the owner of more than one accident, health, hospitalization or surgical insurance policy or certificate, each or any with different insurers, ought give the required written notice by *personal service* on the insurer, if he desires the full amount of his insurance for the loss sustained instead of a return of a portion of the premium paid which exceeds the pro-rata portion for the benefits determined, particularly if optional provision 17, or either or both of the aforesaid sub-sections appear in the policy or certificate of insurance.

<sup>17</sup> Vance on Ins. Law 3rd Ed. p. 104

<sup>18</sup> Scott v. Dickson 108 Pa. 6 (1884) Patterson's Essentials of Ins. Law, p. 119 Vance on Insurance Law 3rd Ed. p. 797 n.55

<sup>19</sup> Vance on Ins. Law 3rd Ed. p. 797

<sup>20</sup> Chap. 70 Sec. 2 Ill. Rev. Stat. 1953

<sup>21</sup> Crab Orchard Imp. Co. v. Chesapeake & O. Ry. Co. 115 F2d 277 (1940)

<sup>22</sup> Supra, note 9

<sup>23</sup> Chap. 73 Sec. 969a (2) (f) Ill. Rev. Stat. 1953

<sup>12</sup> Chap. 73 Sec. 969a (2) (e) Ill. Rev. Stat. 1953

<sup>13</sup> Supra, note 9

<sup>14</sup> 261 Ill. 362 (1914)

<sup>15</sup> Chap. 73 Sec. 969a Sub. 1 (i) Ill. Rev. Stat. 1953

<sup>16</sup> Supra, notes 4 & 5

## MY STEWARDSHIP—ELMER GERTZ, President

Each year, on the occasion of our annual meeting, it is the custom for your president to report briefly on his stewardship of the affairs of The Decalogue Society of Lawyers. It is particularly appropriate that this be done as we mark our coming of age at a party honoring our past presidents. I shall have a second chance to report at the installation of the officers whom we elect tonight.

It is well to ask how this twenty-first year of our activities fits into the fabric of our history. Did we add anything to the general pattern? I think that we can say that this has been the year of preeminent achievement in public acceptance, in what is generally called prestige.

In a year in which, for the first time, we entertained two justices of the United States Supreme Court and a former President of the Republic, it was to be expected that all media of communication, not alone in this community but everywhere, would play up the name of our Society. In truth, the public acclaim predates the great meetings of the year, although these meetings undoubtedly enhanced and accelerated the process. We must build on this prestige in the future and do nothing to detract from our name and fame.

Two institutions in particular have given increasing standing to our Society. The more obvious one is our great Annual Patriotic Dinner. When on succeeding years an organization honors men like Adlai E. Stevenson, Albert Einstein and Harry S. Truman, and it is recalled that on other occasions giants like Wendell C. Willkie, Rabbi Stephen S. Wise, Dr. Percy L. Julian, and Bishop Bernard J. Sheil have also received our Award, the community begins to look upon the dinner and the Award as symbolic of the highest reaches of the *genus Americanus*. Hundreds, if not thousands, of awards are given annually by innumerable organizations, but, in sober truth, there is nothing quite like our Decalogue Awards. We should always hold high the standards which give meaning and moment to them. Our awards are important, first of all, because we, ourselves, take them seriously.

Our Awards are important, in the ultimate sense, because it is recognized that our Society is part of the living conscience of the legal profession and the Jewish people. This year, as in other years, we fought in defense of human rights and dignity, largely through the instrumentality of our Civic Affairs Committee. Having headed this committee from its formation, through the administrations of nine or ten of my predecessors as president of the Society, I take particular pride in its work. I want to commend and thank Richard Ritman and Elliott Epstein, the co-chairmen of this committee, for their inspiring work on many projects of the committee, including their opposition to wire-tapping and the Broyles Bills and their support of a code of fair conduct for legislative committees. They are now embarked on an effort to liberalize the naturalization and immigration laws of the United

States. This is work that should receive the wholehearted support of my successor.

The voice of our Society in expressing itself on civic affairs, professional matters and everything for which we stand and all that we do is our Journal. Under the devoted editorship of Benjamin Weintraub, the Journal has been one of the best such publications in the nation. Increasingly, libraries everywhere seek complete files of the Journal. More and more of our members recognize that it is an honor to contribute their best writings to our own magazine. Efforts should be made, through increased advertising revenue, to add pages to the Journal or at least to make it self-supporting. I might add this administration has tried to make all of its issues self-supporting.

This has been a year of innovations—of gratifying “firsts.” The administration began July last with an outing at a different country club from the one that had been used during previous decades. A women’s committee was appointed for the first time, headed by Mrs. Harry A. Iseberg, and it filled so definite a need that it is likely to be retained for all such affairs, as well, perhaps, as other Decalogue activities. A novel feature of our outing was a golf match between the U. S. Senatorial candidates of the two major parties, the one candidate appearing in person, and the other through a proxy. It was a vivid demonstration of belief in the American doctrine of good sportsmanship and fair play. This belief is behind the good relations we enjoy with all other professional associations in this community. This may be the time to reactivate the Inter-Bar Council.

Other “firsts” included a luncheon for Decalogue authors, our first Lincoln panel discussion, a photographic contest (not yet completed), a luncheon in honor of two retiring jurists, both of the Roman Catholic faith and Polish in national origin, affiliation with the Blue Cross and Blue Shield hospitalization and medical plans, the appointment of a committee to study the advisability or non-advisability of a Jewish Community Council in Chicago, a dinner for the sale of the bonds of the Government of Israel, addressed for the first time by an associate Justice of the United States Supreme Court, Tom C. Clark, the employment of a professional auditor for the regular preparation and audit of our books of account, the proposing of amendments to our constitution which would limit the consecutive terms of board members, the slating by the Nominating Committee of more new names than ever before, the first systematic study of the shock of reality for young people entering the practice of law, the first luncheon meeting at which all newly admitted lawyers of our faith were guests of the Society. Lengthy as this list is, I am sure that several novelties of this administration have been omitted.

We have not advocated the new for its own sake, without regard to the meanings and consequences. Our aim has been to ventilate dark corners so as to admit the light wherever it has been needed. We



respect traditions in Decalogue, but we do not follow them blindly. Our aim has been to get new people, and particularly young lawyers, interested in our work. More of them have worked with us than ever.

I have said repeatedly that the life-blood of our organization flows through its committees. I am proud to say that during this administration more committees have functioned than ever before in our history, and there have been many new committee chairmen. But what distresses me is that some committees have not functioned at all or have been feeble and fitful in their movements. There is no reason for a committee to exist unless it attempts some tasks. Time does not permit a full re-telling of the work of our committees, but I would be derelict in not calling attention to the efforts of the budget committee, under the chairmanship of Roy I. Levinson; the constitution and by-laws committee led by Solomon Jesmer; the entertainment committee, chaired by H. Leo Nye; the forum committee headed by H. Burton Schatz; the Great Books Course, led with distinction by Alec E. Weinrob and Oscar M. Nudelman; the house and library, chaired by Louis J. Nurenberg; the insurance committee, chaired also by Alec E. Weinrob; the judiciary committee by Reuben Flacks; the legal education committee made vital by Maynard Wishner, through a large number of sessions; the membership retention committee, chaired by Marvin Victor, one of our young men with a future; the orientation of younger members committee, given meaning by the brilliant Bernard Weissbourd; the placement and employment committee, led with understanding by Michael Levin; the speakers bureau, captained by the gallant Alex M. Golman until his death and now chaired by Bernard Epton. I am sure that I have inadvertently omitted the work of other committees from this hurried listing. To all committee chairmen, officers, members of the board of managers, and particularly, the past presidents, I want to say that I am grateful. If the Society has standing and acceptance, it is due in no small measure to those who have labored with us during twenty-one fruitful years. I owe a personal debt of gratitude to Judge Henry L. Burman, Solomon Jesmer, Paul G. Annes, and Jack E. Dwork, for assistance, advice, encouragement, and work.

There is one innovation that I have not mentioned, but to me it has been a source of pleasure as well as profit, and I commend its continuance to my successors. Each Tuesday I have tried to lunch with the two vice-presidents, Bernard H. Sokol and Morton Schaeffer. Together we have discussed the problems and plans of the Society that means so much to each of us, and out of our discussions have come mutual understanding and the tools with which to carry on. Through these luncheons and a year of working together, I have learned to know and, therefore, to like and to respect Bernard Sokol and Morton Schaeffer. It is a comfort to know that as I relinquish my office within the next few weeks, they and my dear friend, Solomon Jesmer, will take over the reins and will lead the Society, briskly and competently, to new responsibilities and greater achievements.

## RICHARD FISCHER

The Decalogue Society of Lawyers mourns the passing, on May 15, of its executive secretary Judge Richard Fischer. Elected to that office in 1945, he was annually re-elected since. The Judge, a member of our Society from its earliest days, endeared himself to our membership by the efficient administration of his office, his unvarying courteousness, and his often expressed conviction in the soundness of principles which are the foundation of this Bar association. Our Board of Managers and officers, are unanimous in declaring that the Society has suffered a great loss in the death of Richard Fischer—a capable administrator and a loyal and devoted friend.

Richard Fischer was born on the West Side of Chicago in 1875. Both his maternal and paternal grandfathers fought in the Civil War on the Union side.

He was graduated from the West Division High School in 1893, a class known as "The World's Fair Class." Both his college and law school studies were at Northwestern University, from which he was graduated in 1897. He was admitted to the bar in the same year. Fischer paid his way through college by working in his father's orchestra and band.

Fischer served in the Spanish-American War under Col. Marcus Kavanagh, who later became Judge of the Supreme Court of Cook County. He was a Sergeant Major in the Infantry guard. He also served under Col. Milton Foreman as regimental band leader. For more than twenty-five years he was a conductor of orchestras at the Garrick, Woods, Appollo, Great Northern and other theatres. After his return to legal practice, Fischer served in the Trust Department of the Foreman Bank until that institution was closed.

Throughout the years of his residence in this city, Fischer was an officer of the Chicago Federation of Musicians and, a member of the Board of the Chicago Musicians' Club of the latter of which he was the legal adviser.

Fischer was a member of our Society for about 15 years. In 1945 he was elected Executive Secretary, a post which he has held with distinction and to which he has been annually reelected.

In 1926 Fischer moved to Winnetka, Illinois, where he was later elected Police Magistrate of the Village, an office to which he was reelected for several terms until he again resumed his residence in Chicago.

In 1948 the Illinois State Bar Association noted the fiftieth anniversary of his admission to the bar of this State by conferring upon him the title of Senior Counsellor.

Judge Richard Fischer is survived by his widow Forrestine and two sons, Richard S., and Forrest.



## Applications for Membership

HARRY D. COHEN, *Chairman*

### APPLICANTS

Samuel E. Alexander  
Melvin M. Carmel  
Robert B. Chatz  
Nathaniel J. Forgan  
Earle S. Karno  
Max H. Marine  
Arthur B. Mendelson  
Joseph Minsky  
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David Reiff  
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Benjamin Mark and  
David S. Schechter  
Benjamin Weintraub and  
Eugene Bernstein  
Benjamin Weintraub and  
David F. Silverzweig  
Benjamin Weintraub and  
Esther R. Rothstein

### SAUL A. EPTON HONORED

Member of our Board of Managers, Saul A. Epton was presented by William G. Stratton, Governor of Illinois with a special "Score Board Testimonial," for the distinction of being the only one of thirty six candidates presented to the Church Federation of Greater Chicago, to receive a 100% score in their "Voter's Guide."

Mr. Epton was a Republican candidate for Judge of the Municipal Court in the last general election. He is a member of the State Civil Service Commission.

### SPEAKER'S ENCYCLOPEDIA

Member Judge Jacob M. Braude's book *Speaker's Encyclopedia of Stories, Quotations and Anecdotes* is on sale at all book stores. Among other features, it has 2,961 entries, arranged alphabetically, enabling the reader to find the exact information wanted. The price of the volume is \$4.95.

A review of the *Encyclopedia* will appear in a near issue of The Decalogue Journal.

## TRUMAN IN CHICAGO

Harry S. Truman's speech to the Decalogue Society of Lawyers Tuesday night was a tribute to the Bill of Rights and a plea for vigilance in maintaining it in full vigor.

He made no direct application of his remarks to any current business in Illinois or at Washington. They should be heeded in this state, however, where the Broyles bills seriously threaten some rights that ought to be protected under the Constitution.

Truman asserted that it is as much the duty of the U. S. Attorney General to protect the rights of the individual under the Constitution as it is that officer's duty to prosecute those guilty of crime. If he meant to criticize the present Attorney General's handling of the "subversive organization" listings, he did not do so. Such criticism, as we pointed out Wednesday, would be deserved.

The federal government has never made mere membership in these "front" organizations a felony. The Broyles bills attempt to do so.

We were pleased to see the former President in such health and vigor. We commend his Decalogue Society speech for consideration by Republicans and Democrats alike, and the application of its principles wherever the circumstances require.

Editorial—Reprinted with the permission of  
*Chicago Daily News*

### A Note of Appreciation

Dear Mr. Gertz:

I can't tell you how very much I appreciate the dinner and the citation which you gave me last night.

I am sorry that I had to leave in such a hurry but business was piling up here and I really had to get home.

It was one of the happiest meetings I have ever attended.

Sincerely yours,  
HARRY S. TRUMAN

### BEN ARONIN WRITES A NOVEL

*Walt Whitman's Secret*, a novel by member Ben Aronin dealing with the life of the great American poet, has just been published. The price of the book is \$4.50 and it is available in all book stores.

## BOOK REVIEWS

*Military Tribunals and International Crimes*, by John Alan Appleman. Bobbs-Merrill Co. 436 pp. \$8.00.

Reviewed by JUDGE HARRY G. HERSHENSON

Member Judge Harry G. Hershenson of the Superior Court, has a distinguished military record achieved in World War II. He was one of six men decorated by the National Committee of Liberation for Northern Italy. He was Military Governor of Naples and Military Governor of the city of Milan and the province of Milan with a total population of four and a half million people. He is Past Commander of Jewish War Veterans of the United States, Department of Illinois.

The United States, at the close of World War II, found itself in possession of high ranking prisoners. Many of them had been publicly branded with personal blame for precipitating the war and for incitement or perpetration of acts of barbarism in connection with its preparation and conduct. This country, through President Franklin D. Roosevelt, had joined in definite commitments to bring such men to justice, but no treaty, precedent or custom determined by what method justice should be done. This latter problem seems to have been given little consideration by any of the Allied governments until discussion of possible procedures was initiated early in 1945 at the Yalta Conference.

After numerous conferences between representatives of the United States, Britain, France and Russia, *The Agreement and Charter of London* was finally signed August 8, 1945.

The principles of the charter establish its significance as a step in the evolution of a law-governed society of nations. The charter is something of a landmark, both as a substantive code defining crimes against the international community and also as an instrument establishing a procedure for prosecution and trial of such crimes before an international court. It carries the concept of crime against the society of nations far beyond its former state.

In April 1949, judgment was rendered in the last of the Nuremberg war crime trials which had begun in November 1945.

This was the first time that those in command of a nation's destinies have been called to general account. The defendants in these proceedings, charged with war crimes, crimes against humanity and against peace, were a cross section of military leaders, statesmen, administrators, bankers, industrialists, propagandists and educators. Certain organizations such as the SS, SD, Gestapo, General Staff and High Command, were also indicted as criminal

groups to establish the principle of collective guilt. Nuremberg, which was generally regarded as the seat of the Nazi party, was selected as the place of trial.

The Far East was not overlooked. General Douglas MacArthur, as Supreme Commander, in January 1946 established the International Military Tribunal for the Far East, for the trial of offenses similar to those charged at Nuremberg, including crimes against peace. There were no charges of crimes against humanity except where they bore directly upon war crimes. No organizations were indicted as criminals.

The author has done an outstanding piece of work in covering such a vast, and so important a subject in one small volume. He has covered the subject extremely well.

The proceedings before the International Military Tribunal at Nuremberg established the controlling law and procedure. Major attention is devoted to that trial and the first half of the book deals with that trial exclusively.

The second half of the book is devoted to (1) the 12 subsequent Nuremberg Trials, viz: The Medical, Krupp, Farben, Ministries, Hostages cases, etc.; (2) The Tribunal in the Far East; (3) Trials before Military Commissions and other Tribunals; and (4) Developments since Nuremberg.

Far from being of concern solely to lawyers, these trials are of especial interest to soldiers, historians, students of international affairs and others. Bibliography and index are excellent.

*Simeon Eben Baldwin, Lawyer, Social Scientist, Statesman*, by Frederick H. Jackson. Foreword by Judge Charles E. Clark. King's Crown Press. 291 pp. \$5.00.

Reviewed by JUDGE JULIUS H. MINER

Member Judge Julius H. Miner has been serving on the Circuit Court bench for the last fifteen years. Prior to his elevation to the Bench he was a Master in Chancery of the same court. He is a lecturer at Northwestern University on sociology, criminal law, and domestic relations. Judge Miner, a frequent writer for legal periodicals, is the author of books on mechanic liens, bank liquidation, and stock liability.

United States Circuit Judge Charles E. Clark states in his Foreword, "One could hardly consider Simeon Baldwin a romantic figure; nor is it possible to conceive of a life of him written in the current heroic style."

A romantic biography could have been well written of a founder and builder of a national association of lawyers which has steadily grown in world-wide prestige and stature. It is difficult to perceive a more effective living monument to one's memory than the perpetuation of this dynamic and progressive federal organization dedicated to the advancement of the science

of jurisprudence, promotion of the administration of justice and the upholding of the dignity of the legal profession.

In 1877, Baldwin successfully launched The American Bar Association. Immediately thereafter he proceeded to organize it, and to enlist 14 outstanding legalites of his day to sign the call for its initial session. He drafted its constitution, selected the first officers, and was its chief source of direction and inspiration for years. He conceived and headed its most important committees and later served as its president.

A "current heroic style" should normally apply for one who has served for 20 years as associate and Chief Justice of the Connecticut Supreme Court of Errors and, subsequently, two terms as Governor of that State; for an individual who had devoted 50 years of his life as Professor at Yale Law School before, during and subsequent to his tenure in public office.

The author bemoans the fact that Baldwin's writing (some 200 items) "was spare and lean like his personality, so that he did not entice admirers or imitators." He speculates; "with all of these accomplishments it is somewhat perplexing to understand why a generation after his death, Simeon E. Baldwin is so little remembered."

The explanation readily emerges in his biography. Mr. Justice, Governor, and Professor Simeon E. Baldwin is portrayed as "austere" and "somewhat forbidding." His prominence declined because of his lack of sympathy for the many progressive reforms which were both firing the imagination and exciting the interest of his contemporaries. He did not appreciate the liberal pronouncements of Louis Brandeis or Oliver Wendell Holmes whose memories will live on. He was hostile to federal anti-trust litigation and legislation against railroads, traditionally a Baldwin family clientele for four generations. The author suggests that Baldwin frequently participated in "political backstage maneuvers." Uncompromising and unyielding he endeavored to impress his philosophy upon posterity.

His prize essay "The Second Life of Man" reveals his inner thoughts. It doesn't deal with the hereafter, but idolizes the phenomenon of a worthy reputation which man strives to have survive him. The prominence Simeon E. Baldwin strove for so arduously to bask in his "Second Life" fell somewhat short of its goal. One third of his tangible "fame"—\$1,500,000—he wisely endowed to Yale, his Alma Mater. His biographer, however, is silent on the manifestation of any benevolence to his noblest achievement, The American Bar Association.

The author comments that his subject suffered all through life from weak eyes; lack of vision, I believe was his foremost impediment.

## Great Books Discussion Group Sessions Begin September 12

The third year Decalogue Great Books Discussion Group will begin its sessions on September 12, at 6:15 P.M., and will continue on alternative Mondays, at the same hour, for sixteen two hour sessions. All of the meetings will be conducted at our headquarters at 180 West Washington Street.

It is expected that all former participants in the Discussion Group will continue with the next course. Members who have not as yet availed themselves of this great educational feature of our Society's activities are welcome to join and participate in the entire new course. During the past two years the Decalogue Discussion Group led by Messrs. Oscar M. Nudelman and Alec E. Weinrob, was repeatedly singled out for commendation by the top leadership of the Great Books Foundation in the Chicago area for the thoroughness of its instructive leadership.

The sixteen books listed below will be in the order stated, reviewed and discussed during the coming meeting. Individually purchased they cost eleven dollars per set. If, however, ten or more sets are ordered at one time the cost to a participant will be only nine dollars and twenty five cents. It is urged that members who intend to join the course and purchase the books communicate immediately with either Mr. Nudelman, phone FRanklin 2-1266, or with Mr. Weinrob at FRanklin 2-7266.

The books to be discussed are:

The Book of Job  
Aeschylus: The Oresteia, a trilogy  
Thucydides: History of the Peloponnesian War, Selections  
Plato: Symposium  
Aristotle: Politics, Books III-V  
St. Thomas Aquinas: Treatise on Law  
Rabelais: Gargantua & Pantagruel, Book I  
Calvin: Institutes, Selections  
Shakespeare: King Lear  
Francis Bacon: Novum Organum, Book I  
Locke: Of Civil Government  
Voltaire: Candide  
Rousseau: The Social Contract, Books I-II  
Gibbon: The Decline & Fall of the Roman Empire, Chapters XV-XVI  
Dostoyevsky: The Brothers Karamasov, Selections  
Freud: The Origin & Development of Psychoanalysis

## Lawyer's LIBRARY

### NEW BOOKS

- Barth, Alan. *Government by investigation*. N. Y., Viking Press, 1955. 231 p. \$3.00.
- Bridewell, D. A. *Credit unions, organization and operation*. Albany, Bender, 1955. \$6.00.
- Congress of Industrial Organizations. *The Case against 'Right to work' laws*. Washington, D. C., The Author, 1954. 171 p. \$3.00. (Paper \$2.00)
- Crowther, C. E. *Religious trusts, their development, scope and meaning*. Oxford, Ronald, 1954. 143 p. 21s.
- Donovan, R. J. *The assassins*. N. Y., Harper, 1955. 320 p. \$3.50.
- Douglas, W. O. *An almanac of liberty*. N. Y., Doubleday, 1954. 409 p. \$5.50.
- Gibb, A. D. *Perjury unlimited; a monograph on Nuremberg*. Edinburgh, W. Green & Son, 1955. 3s.6d.
- Henry, A. F. and Short, J. F., Jr. *Suicide and homicide; some economic, sociological and psychological aspects of aggression*. Glencoe, Ill., Free Press, 1954. 214 p. \$4.00.
- MacLane, J. F. *A sagebrush lawyer*. 2d ed. N. Y. (22 Thames St.), Pandick Press, 1954. 177 p. \$3.00.
- Mayers, Lewis. *The American legal system*. N. Y., Harper, 1954. 608 p. \$6.50.
- McCarty, D. G. *Law office management*. 3d ed. N. Y., Prentice-Hall, 1955. 525 p. \$6.95.
- Mertens, Jacob, Jr. *Law of Federal income taxation*. Rev. ed. Chicago, Callaghan, 1954. 572 p. \$20.00.
- Neumeyer, M. H. *Juvenile delinquency in modern society*. 2d ed. N. Y., Van Nostrand, 1955. 440 p. \$5.00.
- Newman, E. S. *Law of philanthropy*. N. Y., Oceana, 1955. 96 p. \$2.00. (Paper \$1.00) (Legal almanac ser., no. 38)
- Nichols, C. A. *Cyclopedia of legal forms, annotated*. Revised Vol. 4. Chicago, Callaghan, 1955. \$20.00.
- Rackman, Emanuel. *Israel's emerging constitution, 1948-1951*. N. Y., Columbia Univ. Press, 1955. (1954) 196 p. \$3.00.
- Summers, W. L. *Law of oil and gas*. 1954 pocket part. Kansas City, Vernon, 1954.
- Taylor, I. M. *Law of insurance*. N. Y., Oceana, 1955. 96 p. \$2.00. (Paper \$1.00) (Legal almanac ser., no. 37)
- The lawyer lectures*. 1953 series of lectures sponsored by the New England Law Institute. Boston, Lawyers' Brief & Pub. Co., 1954. \$10.00.
- U. S. Attorney General's National Committee to Study the Antitrust Laws. *Report*. March 31, 1955. Washington, Govt. Print. Off., 1955. 393 p. \$1.00.
- U. S. Supreme Court. *Federal rules of criminal procedure*. 1955 rev. ed. St. Paul, West, 1955. 584 p. \$5.00. (Paper)
- Wise, J. K. *Patent law in research laboratory*. N. Y., Reinhold Pub. Corp., 1955. 145 p. \$2.95.

## An Ancient Jurist

There was a jurist in the days of old  
Whom grace of Fate made judge, it was a pity!  
Some said that he was learned in Coke and  
Chitty,

And therefore had a right to roar and scold  
And babble in a manner manifold.  
So that the rumblings of a noisy city,  
Scarce drowned his voice, he was so very witty,  
Tempestuous and blustering and cold.  
This legal Vulcan let the hammer drop  
From day to day and fashioned strange decrees,  
And made all suitors very ill at ease  
Because he roared and found no way to stop.  
A wag at last stuck up such words as these:  
"This is a court, and not a boiler shop."

—EDGAR L. MASTERS

from *Lawyer's Alcove*

Edited by Ina Russelle Warren

### INSURANCE ADVICE

Member Samuel S. Herman, with the Connecticut Mutual Life Insurance Company, welcomes inquiries from fellow members of the Society for information concerning business men's insurance, estate planning, and advance insurance.

### EUGENE BERNSTEIN

Member of our Board of Managers Eugene Bernstein spoke at a Round Table luncheon, on April 19, at the Covenant Club on "You, Too, can be a Hypnotist." At the conclusion of his address, Bernstein gave a demonstration of hypnosis.

### MAX REINSTEIN INSTALLED

Member Max Reinstein was installed by Judge Julius H. Miner, on June 1, as president of the Research Society for Cerebral Palsy.

Reinstein succeeds member Meyer Cherkas, president of that organization for two years.

### ELECTED

Member Jacob Van Emden's son, George Van Emden, was elected Chancellor of the Nu Beta Epsilon Law Fraternity at its last meeting at Champaign, Illinois.



## Judgment for the Rabbi

Anti-Semites who have been bracketing Jews with Communism got a jolt when a Newark court found Conde McGinley guilty of libel against Rabbi Joachim Prinz of that city. The rabbi was awarded a \$30,000 judgment, of which \$5,000 was compensatory and \$25,000 punitive.

In his paper, "Common Sense," McGinley had referred to the rabbi as "red Rabbi Joachim Prinz who, not unlike Albert Einstein, was expelled from Germany for revolutionary, Communist activities." The paper had also similarly libelled the American Jewish Congress, of which Rabbi Prinz is a leader.

"The verdict," declared the rabbi, "not only vindicates me personally, but it also vindicates all the groups with which I have associated, most notably the American Jewish Congress which, because of its fight for justice and decency and against Communists and Fascists alike, has been the principal target."

—*National Jewish Monthly*

## PAUL G. ANNES

Past president Paul G. Annes was general chairman of the 1955 Civic Assembly of the City Club. Annes is a former president of that organization.

On April 19, Annes addressed the Spring meeting of the Corporate Fiduciaries Association of Cook County on "Current Developments in Trust Law and Trust Administration."

## CONGRATULATIONS!

The following members of our Society were elected to public office in Chicago and Cook County at the last general election, on April 7:

Leon Despres, Alderman, 5th ward

Jack I. Sperling, Alderman, 50th ward

Seymour F. Simon, Alderman, 40th ward

## SORROW

The Decalogue Society of Lawyers announces with deep regret the death of  
Jacob Sheer

## MAXWELL ABBELL

WILLARD'S OF WASHINGTON (by Garnett Laidlaw Eskew. Coward-McCann, 214 pp. \$4.00) is the title of a book recently published and dedicated to member Maxwell Abbell, Chicago civic and religious leader, who headed a group which purchased the Willard Hotel for five million dollars. The book is a story of the Willard family and of many leading American personalities of the past century who were guests or who lived in the Willard Hotel during their sojourn in the national Capitol.

## Religious Liberty Test Case Won

A victory for religious liberty was scored last month when the California District Court of Appeals ruled that the City of Piedmont had acted unconstitutionally in banning the construction of a Catholic parochial school in a residential area in which public schools were permitted. Ira W. Barr, president of AJC's North California Division, and Leo Pfeffer, counsel for AJCongress, had filed an *amicus* brief supporting the right of the Catholic community to build a parochial school, in line with AJC's policy of fighting encroachments on the religious freedom of all Americans.

—From *Congress Record*

AMERICAN JEWISH CONGRESS

## WALT WHITMAN CELEBRATION

President Elmer Gertz and member Ben Aronin spoke on May 31st, at the Chicago Art Institute, at a celebration commemorating one hundred years of the publication of the *Leaves of Grass*.

## SIDNEY NEUMAN HEADS SEVENTH FEDERAL CIRCUIT

At the last annual meeting of the Bar Association of the Seventh Federal Circuit on May 24th, member Sidney Neuman was elected President. The Seventh Circuit comprises the States of Illinois, Indiana and Wisconsin. The association has more than 700 members.

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A Publication of The Decalogue Society of Lawyers

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## Decalogue Society Honors Its Past Presidents New Officers Elected

At our last annual election, held on the evening of June 2, at the quarters of The Chicago Bar Association, the past presidents of our Society were presented with a token of the organization's regard. The gift consisted of a small, beautifully engraved, golden key-shaped pin, on one side of which is a Decalogue and on the other the name and the year of the president's term in office.

Member of our Board of Managers, Judge Henry L. Burman of the Superior Court, presented each of the past presidents in attendance with their tokens of the Society's esteem. First vice-president Morton Schaeffer in charge of arrangements, enlisted the aid of The Chicago Bar Association Quartette who obliged with several numbers. Schaeffer was pleasantly active at the piano. Past president Oscar M. Nudelman spoke at length on the history of our Society, citing the most outstanding achievements of various administrations, steps taken to enhance the stature of the legal profession and the part our membership plays in the Jewish community. Mr. Nudelman gave examples of our strong interest in upholding the dignity of the Bench and Bar.

Judge Oscar S. Caplan, the founder of The Decalogue Society of Lawyers, dwelled on the reasons and the principles which led a small group of Jewish lawyers to establish our Society, twenty-one years ago. The Judge expressed profound appreciation of the work of men and women who, following in his footsteps,

brought the Society to its present size and influence, both in the legal profession and in the community. He was most optimistic of the Society's future.

President Elmer Gertz presided and gave a detailed account of his stewardship in office. His report, in full, appears elsewhere in this issue.

The following officers and members of our Board were unanimously elected and will be installed June 24, at a luncheon in the Covenant Club.

President ..... Bernard H. Sokol  
First Vice President ..... Morton Schaeffer  
Second Vice President ..... Solomon Jesmer  
Treasurer ..... Harry H. Malkin  
Financial Secretary .. Judge Hyman Feldman  
Executive Secretary ..... Richard Fischer  
(Since deceased)

### BOARD OF MANAGERS

#### Two Year Term:

Hon. Henry L. Burman	Bernard E. Epton
Saul H. Epton	Harry G. Fins
Jacob Fishman	Reuben S. Flacks
Leo Karlin	Meyer Weinberg
Alec E. Weinrob	Bernard Weissbourd

#### To Fill One Year Vacancy:

Reginald Holzer	Leon A. Kovin
	Esther O. Kegan



